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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/359,562	07/22/1999	DONALD F. GORDON	533/006	2979

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EXAMINER

SAX, STEVEN PAUL

ART UNIT	PAPER NUMBER
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2174

DATE MAILED: 08/27/2003

17

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/359,562

Applicant(s)

Gordon et al

Examiner

Steve Sax

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on May 28, 2003
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

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DETAILED ACTION

1. This application has been examined. The amendment filed 11/27/02 and CPA filed 12/9/02 have been entered.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-5, 8-16, 20-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schein et al (6263501) and Smith (5933141).

4. Regarding claims 1, see in Schein et al: the abstract, Figure 16A-B, Figure 20A-C, column 2 lines 20-60. Note the program guide for an interactive information distribution system. The guide has a video layer and a graphics layer which provides emphasis and de-emphasis of objects in the video layer (for example elements 528, 526 in Figure 20B and 530 in Figure 16B). Schein et al do not specifically state that the video layer is part of the interactive program guide itself, with an object selectively emphasized or de-emphasized by the graphics portion of the

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program guide, but do discuss selection flexibility of programs for viewing. In addition, Smith does show the video layer being part of the interactive program guide with objects being emphasized or de-emphasized by the graphics layer. See Figures 6A-B, column 8 lines 1-34. The video object is emphasized by features on the graphics layer for selection flexibility of programs for viewing. (See specifically in lines 5-6 where Smith says such techniques are known in the art). It would have been obvious to a person with ordinary skill in the art to have this in Schein et al, because it would provide selection flexibility of programs for viewing.

5. Regarding claim 2, the video layer contains a video and graphic region (Schein et al Figures 19A-C for example, and Smith Figures 6A-B with the obviousness as explained above).
6. Regarding claim 3, see again Schein et al Figure 16B and note that the guide is generated in a central location of the system.
7. Regarding claim 4, see Schein et al column 6 lines 50-55. Audio is included.
8. Regarding claim 5, see Schein et al Figures 16A-B again. The region displays a list of program titles.

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9. Regarding claim 8, the layers are contained in an applet (Schein et al column 2 lines 63-68).

9. Regarding claims 9, the viewer controls the identity of the emphasized object (Smith column 8 lines 5-12 and 25-34. This is the way which the feature of Smith as explained in paragraph 4 of this Office Action works. The obviousness to combine the feature into the EPG of Schein et al is explained in paragraph 4 as well.)

10. Regarding claims 10-11, the objects are selectable and highlighted. See in Schein et al Figures 20A-20C, column 21 lines 1-32 (especially lines 24-26).

11. Regarding claim 12, The graphics layer emphasizes selected objects and de-emphasizes the remainder (Schein et al Figures 20A-20C, column 21 lines 1-32.) That this is in the video layer is obvious based on the feature of Smith explained in paragraph 4 of this Office Action.

12. Regarding claim 13, the objects are program titles (Schein et al Figures 20A-20C)

13. Regarding claims 14-15, the graphics layer is stored or transmitted to a user (Schein et al column 22 lines 22-60.)

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14. Regarding claims 16, 20-26, 33, in addition to the aforementioned: claim 16, the guide is transmitted via a bitstream (Schein et al column 6 lines 49-60). Claim 22, a new context or layout may be emphasized (Schein et al column 17 lines 30-45). Claims 23-26, this may be a preview or advertisement, or different guide, wherein audio may be common (Schein et al column 22 lines 45-68 and 22-30). The other features of those claims are shown above.

15. Regarding claims 27-32, in addition to the aforementioned, the identification functions may be internal locally at the user. An object may be selected to go from broadcast to pointcast mode and back to broadcast when the pointcast ends. (See Schein et al column 6 line 68 - column 7 line 31)

16. Claims 6-7, 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schein et al (6263501) and Smith (5933141) and Blonstein et al (6016144).

17. Regarding claims 6-7 and 17-19, Schein et al and Smith do not specifically show the masking and revealing an object, but do show changing the opacity and emphasis of an object for more focus and less distraction on the program guide display. Blonstein et al do show masking and revealing an object in a program guide display. See in Blonstein et al: the abstract, Figures 7-8, column 2 lines 45-68, column 3 lines 1-12. (Note that the mask/reveal overlay is extracted in a bitstream and updated.) This is done for more focus and less distraction on the program

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guide display. It would have been obvious to a person with ordinary skill in the art to have masking and revealing, because it would allow a convenient way for more focus and less distraction in a program guide display.

18. Applicants' arguments filed have been fully considered but they are not persuasive. The crux of applicants' arguments lies in the interpretation of graphics and video 'layers'. Please note that the claims as recited are still broad. And that the art shows in fact the features claimed. Schein in fact does show two 'layers' - the video portion being one layer and the graphical user interface being another. The video layer is in fact overlaid onto the graphical user interface layer. It may not cover the entire graphical user interface, but that is not claimed either. The interactive feature of the video layer is in fact brought out in Smith, and the combination is proper per the above reasoning in this Office Action. The video 'layer' of Smith allows emphasis and in fact deemphasis, and this is obvious with the motivation that it helps flexibility in selecting programs for viewing, a teaching which is demonstrated in Schein. Per previous discussions, it was a possibility that the claims would be amended, but this was not the case. Examiner is available to discuss claim interpretation upon request.

19. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

20. Any inquiry concerning this communication should be directed to Steve Sax at telephone number (703) 305-9582.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steve Sax whose telephone number is (703) 305-9582. The examiner can normally be reached on Monday - Friday from 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine Kincaid, can be reached on (703) 308-0640.

The fax phone numbers for the organization where this application or proceeding is assigned are as follows:

(703) 746-7238	After Final Communication
(703) 746-7239	Official Communication

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(703) 746-7420

For Status Inquiries, draft communication

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

A handwritten signature in black ink, appearing to read 'STEVEN SAX', written in a cursive, stylized manner.

**STEVEN SAX
PRIMARY EXAMINER**